IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9007 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LATE THAKOREBHAI DESAI SMARK TRUST

Versus

KANTIBHAI SURESHBHAI PARMAR

Appearance:

1. Special Civil Application No. 9007 of 2001

MR AKIL KURESHI for Petitioner No. 1

MR TR MISHRA for Respondent No. 1

MR MA BUKHARI, AGP for Respondent No. 2-3

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 20/06/2002

ORAL JUDGEMENT

1. The main controversies involved in this petition are - whether respondent no. 1 is a "workman"; whether he should be allowed to have assistance of office bearers

of the Union and lastly whether the order passed by the Labour Court disallowing the petitioner to have services of legal practitioner in the proceedings before it, is proper ?

2. During the course of hearing it has been agreed by the learned counsels of the parties that the question with regard to respondent no. 1 being a "workman" or not is a mixed question of law and fact which can well be decided by the Labour Court. They have further agreed that this issue may be referred to the Labour Court to decide the same as preliminary issue. It has been further agreed by them that so far application submitted by the petitioner before the Labour Court with regard to disallowing permission to respondent no. 1 to avail of services of office bearers of the Union be also decided immediately after decision is given on the first question.

3. In light of aforesaid consensus arrived at between the parties, the concerned Labour Court is directed to decide the issue regarding 'workman' as preliminary issue. It is further directed that upon arriving decision on this issue, it will immediately take up the aforesaid application submitted by the petitioner and give its decision on the same. The Labour Court may give its decision on aforesaid two issues as early as possible, preferably on or before 31st October, 2002. It may also be clarified here that so far as the Labour Court's decision denying permission to petitioner to have services of legal practitioner is concerned, the same is not disturbed.

In light of the aforesaid directions, no further action is required to be taken on this petition and the same is disposed of. Rule discharged with no order as to costs.

[Akshay H. Mehta, J.]

* Pansala.